IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.139 OF 2002

The Commissioner of Income-tax ..Applicant.

V/s.

Mahindra & Mahindra Ltd. ..Respondent.

Mr.A.N.Kotangale for applicant.

Mr.B.V. Jhaveri for respondent.

CORAM : DR. S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 29TH JANUARY, 2007.

P.C. :-

Heard learned counsel for the applicant and the respondent. In the above application, following substantial question of law is sought to be raised:-

> " Whether on the facts and in the circumstances of the case, law, the Tribunal was right in holding that expenditure on repairs and payment of rates and taxes are not disallowable under section 37(4) ?

2. Both learned counsel for applicant and the respondent agree that this application itself be treated as a statement of the case and the substantial question of law be decided accordingly.

3. Both learned counsel for the applicant and respondent fairly submit that the above question of law

sought to be raised is squarely covered by the Judgment of the Apex Court in the case of **Britannia Industries Ltd. V/s. Commissioner of Income Tax & Anr.** reported in **278 I.T.R. 546** in favour of the revenue. In the aforesaid circumstances, we answer the question of law in favour of the revenue and against the assessee. Application stands disposed of accordingly.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)